

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 5-21-01?
- b. The request was received on 5-14-02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. Initial TWCC 60 and letter requesting dispute resolution
 1. EOB
 2. UB-92
 - b. There is no response to the request for additional documentation found in the file. A confirmation sheet indicates that the request was faxed to the Requestor on 6-6-02.
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:

Based on Commission Rule 133.307 (g) (4), the Division notified the Requestor with a copy to the insurance carrier Austin Representative of the Requestor's requirement to submit two copies of additional documentation relevant to the fee dispute on 6-6-02. There is no Carrier initial or 14 day response to this medical fee dispute in the file.

III. PARTIES' POSITIONS

1. Requestor: No position statement.
2. Respondent: No position statement.

IV. FINDINGS

1. Based on Commission Rule 133.307 (d)(1&2), the only date of service (DOS) eligible for review is 5-21-01.
2. As reflected by the Table of Disputed Services, the provider, an ambulatory surgery center, billed a total of \$12,578.96 on the DOS in dispute.
3. The Table of Disputed Services indicated that the carrier reimbursed \$1,788.80.
4. The EOB has the denial "M-Reduced to Fair and Reasonable".

5. Per the Provider's Table of Disputed Services, the amount in dispute is \$10,736.16.

V. RATIONALE

The UB-92 indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401(a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011(b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. Regardless of the carrier's methodology or lack thereof, or a timely or untimely response, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable.

Because there is no current fee guideline for ASC(s), the Medical Review Division has to determine, based on the parties' submission of information, who has provided the more persuasive evidence. As the requestor, the health care provider has the burden to prove that the fees paid were not fair and reasonable. There is no documentation to support that the fees billed are fair and reasonable as required by Section 413.011 (b) of the Texas Labor Code. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 15th day of August 2002.

Lesia Lenart, RN
Medical Dispute Resolution Officer
Medical Review Division

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